

**Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	WC Docket No. 10-90
Connect America Fund)	DA 13-284
)	

**REPLY COMMENTS
of the
SMALL COMPANY COMMITTEE OF THE LOUISIANA TELECOMMUNICATIONS
ASSOCIATION
Louisiana Rural Telephone Companies
Sponsoring These Comments:**

**Cameron Telephone Company, LLC
Campti-Pleasant Hill Telephone Co., Inc.
Delcambre Telephone Co., LLC
East Ascension Telephone Co., LLC
Elizabeth Telephone Company, LLC
Kaplan Telephone Co., Inc.
Lafourche Telephone Co., LLC
Northeast Louisiana Telephone Co., Inc.
Reserve Telephone Co., Inc.
Star Telephone Co., Inc.**

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April 12, 2013

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ASSOCIATION**

Louisiana Rural Telephone Companies

The Small Company Committee of the Louisiana Telecommunications Association (the “SCC”)¹ hereby respectfully files these Reply Comments pursuant to the February 26, 2013 *Public Notice* issued by the Wireline Competition Bureau (the “Bureau”) of the Federal Communications Commission (the “Commission”) in the above-captioned proceeding.² The *Public Notice* sought comment on issues relating to implementation of Connect America Fund

¹ The Members of the SCC sponsoring these comments are: Cameron Telephone Company, LLC, Campiti-Pleasant Hill Telephone Co., Inc., Delcambre Telephone Co., LLC, East Ascension Telephone Co., LLC, Elizabeth Telephone Company, LLC, Kaplan Telephone Co., Inc., Lafourche Telephone Co., LLC, Northeast Louisiana Telephone Co., Inc., Reserve Telephone Co., Inc., and Star Telephone Co., Inc. (collectively, the “SCC Members”). *The following CenturyLink Members of the SCC do not join in or sponsor these comments:* CenturyTel of Chatham, LLC, CenturyTel of Central Louisiana, LLC, CenturyTel of East Louisiana, LLC, CenturyTel of Evangeline, LLC, CenturyTel of North Louisiana, LLC, CenturyTel of Northwest Louisiana, Inc., CenturyTel of Ringgold, LLC, CenturyTel of Southeast Louisiana, Inc., and CenturyTel of Southwest Louisiana, LLC (collectively, “CenturyLink”).

² *Wireline Competition Bureau Seeks Further Comment on Issues Regarding Service Obligations for Connect America Phase II and Determining Who Is An Unsubsidized Competitor*, WC Docket No. 10-90, DA 13-284 (rel. Feb. 26, 2013) (“*Public Notice*”).

(“CAF”) Phase II support, including how the Bureau will determine which census blocks are served by an unsubsidized competitor, how price cap carriers will demonstrate compliance with the reasonable comparability standard, and what other providers will need to demonstrate to be deemed unsubsidized competitors.³

The SCC is comprised of the Rural Telephone Companies (47 U.S.C. § 153(37)) providing service in rural areas of Louisiana. The Rural Telephone Company members of the SCC provide a wide array of high quality communications services to rural consumers in Louisiana and are an engine for economic development in the areas they serve. The SCC members have deployed their networks to ensure that service is available to residents in some of Louisiana’s most remote and difficult to serve areas. These networks also provide the necessary infrastructure on which wireless, VoIP and satellite communications providers depend. Therefore, reforms to the USF mechanisms must not compromise the SCC members’ ability to continue to deploy the capital necessary to provide high-quality, dependable and affordable voice and broadband services.

The SCC generally supports the Comments of NTCA-The Rural Broadband Association, the National Exchange Carrier Association, Inc., the Eastern Rural Telecom Association, and the Western Telecommunications Alliance (collectively, the “Rural Associations”) filed herein on March 28, 2013.⁴

³ *Id.* at ¶ 1.

⁴ *Comments of NTCA-The Rural Broadband Association, The National Exchange Carrier Association, Inc., The Eastern Rural Telecom Association, and The Western Telecommunications Alliance*, WC Docket No. 10-90, DA 13-284 (filed March 28, 2013)(“*Rural Associations Comments*”).

I. THE COMMISSION MUST ADOPT AND IMPLEMENT A VERIFIABLE AND DATA-DRIVEN PROCESS FOR IDENTIFYING THE PRESENCE OF PURPORTED UNSUBSIDIZED COMPETITORS.⁵

As explained by the Rural Associations in their comments, the proposals set forth in the *Public Notice* move toward a more robust process (as compared to prior proposals) for confirming the extent to which certain kinds of unsubsidized competitors operate in a given area. However, there is still cause for concern that such determinations may fail to capture accurately and entirely the extent to which a competitor offers a meaningful alternative in rural areas, thus undermining the statutory mandate of universal service.⁶ The SCC agrees with the Rural Associations that the Commission should take further steps to implement an evidentiary-based process that takes account of the availability of both broadband and voice service, the prices for such services, and the quality of service in each instance.⁷

The Commission should not depart from its professed commitment to “data-driven” policies when it comes to implementing processes for identifying purported unsubsidized competitors.⁸ The SCC supports the Rural Associations’ assertion that nothing less than a meaningful and evidence-based process must be applied at each turn if the Commission is to fulfill its statutory universal service responsibilities to rural consumers. For example, as explained by the Rural Associations:

⁵ The SCC recognizes that the proposal at issue in the instant *Public Notice* applies only to distributions of CAF Phase II funding to price cap-regulated carriers, that the provisions of the order with respect to unsubsidized competition being implemented through the *Public Notice* apply only to areas where price cap carriers operate, and that a separate methodology for identifying an unsubsidized competitor in areas served by rate of return regulated carriers remains subject to development through a pending rulemaking proceeding. However, it is critical from the start that the Commission structure the process of identifying purported unsubsidized competitors properly in every context.

⁶ *Rural Associations Comments* at pp. 1 – 2.

⁷ *Id.* at p. 2.

⁸ *Id.* at p. 2 and fn. 3.

While the *Public Notice* applies a more robust and data-driven process to the determination of whether a *fixed wireless* provider is indeed qualified as an unsubsidized competitor, it still appears to retreat to a more superficial ‘just check the map’ approach with respect to other fixed would-be competitors. As a result, the onus of a robust and evidence-based affirmative showing is not also placed on cable providers (who, presumably, would possess the most accurate information as to their service offerings and availability), as was actually first proposed by the cable industry itself. On the contrary, as the *Public Notice* makes clear, alleged unsubsidized cable provider competitors would be able to rely upon uncertified, unilateral assertions of competitive presence through the more generic broadband mapping process. The onus would be on incumbents to challenge their assertions through evidentiary submissions that attempt to disprove claims of availability and/or highlight ways in which the services offered by such would-be competitors are not in fact reasonably comparable with respect to service type (e.g., voice vs. broadband), service quality (e.g., speed, latency, capacity, or other limits), or price (i.e., does the competitor also offer services at reasonably comparable rates to those available in urban areas?). Indeed, the Bureau seems itself to acknowledge later in the *Public Notice* that looking solely at broadband availability would be insufficient to fulfill the goals of ensuring that reasonably comparable voice and broadband services are available at reasonably comparable rates across the nation.⁹

The SCC agrees with the Rural Associations that, as part of a well-considered evidentiary process, no good reason exists to compel a universal service recipient to rebut the claims of a would-be competitor, given that the would-be competitor – whether fixed wireline or fixed wireless – purporting to offer such services is in the best position to know its rates, terms, conditions, and service characteristics.¹⁰

Moreover, and as explained above, an affirmative evidentiary showing on the part of a purported unsubsidized competitor should apply to cable providers as well as to fixed wireless providers. Given the wide variance in the presence of unsubsidized competitors shown via the

⁹ *Rural Associations Comments* at pp. 4 – 5.

¹⁰ *Id.* at p. 6.

National Broadband Map and the actual presence of such competitive providers, the Commission should adopt a much more rigorous process.¹¹

In addition, the *Public Notice* states that “while we would assume that a cable provider that meets the speed threshold also would meet the price, capacity, and latency requirements discussed below, this is a rebuttable presumption.”¹² There is no basis for affording such a presumption to any would-be competitor. As explained by the Rural Associations:

Such a rebuttable presumption would put CAF recipients in the unenviable position of rebutting such self-reported assertions without access to sensitive information that alleged competitors do not and undoubtedly will not share. Finally, and most significantly, giving one subset of would-be competitors such a ‘free pass’ would not permit the Commission to adequately judge the potential for ‘false positives’ – that is, whether consumers in areas who are being denied the benefit of universal support because of alleged unsubsidized competition will in fact have sustained access to reasonably comparable voice and broadband services at reasonably comparable rates. As a statutory principle, reasonable comparability should not be contingent upon guesswork, conjecture, ‘check-the-box’ use of incomplete and at least partially inaccurate databases, and/or limited access to certain service characteristics that any given sector of the industry almost certainly holds proprietary.¹³

The SCC concurs with the Rural Associations. The Commission should adopt a reliable and generally applicable evidentiary process that does not enable a subset of would-be competitors to make unilateral assertions without necessary validation and evidentiary showings. The Commission should require all would-be competitors, whether fixed wireline or fixed wireless, to make the same meaningful affirmative evidentiary showing of the necessary speed, latency, capacity, and price standards. Such an approach will help ensure that rural consumers are not placed at risk of losing access to reasonably comparable voice and broadband service at affordable rates.

¹¹ *Rural Associations Comments* at p. 6.

¹² *Public Notice* at fn. 19.

¹³ *Rural Associations Comments* at pp. 6 – 7.

II. THE SPEED THRESHOLD FOR DETERMINING THE PRESENCE OF PURPORTED UNSUBSIDIZED COMPETITION MUST NOT RELEGATE RURAL CONSUMERS TO SUBSTANDARD BROADBAND SERVICE.

The *Public Notice* also seeks comment regarding the speed threshold from the National Broadband Map that should be utilized as a proxy for 4 Mbps/1 Mbps broadband service as part of identifying census blocks served by competitive providers.¹⁴ The SCC concurs with the Rural Associations that the use of 3 Mbps/768 Kbps as a proxy for 4/1 Mbps service should be summarily rejected.¹⁵ The use of this speed proxy risks excluding certain areas from high-cost support even though consumers in those areas may currently lack access to 4/1 Mbps service.

The *Public Notice* proposes instead 6 Mbps/1.5 Mbps as a proxy. This proposal will help to ensure that consumers in rural areas are not left behind those living in other areas of the nation that may already have access to 4/1 Mbps broadband service, as would be the case with a lower speed standard.¹⁶

III. CONCLUSION.

When it comes to identifying the areas where purportedly unsubsidized competitors operate, plans to proceed in the absence of reliable and verifiable data puts at risk the concept of universal service and ultimately leaves consumers at risk of losing access to affordable, high-quality communications services based upon inadequate processes that may fail to catch “false positives” with respect to the presence of such competitors. Universal service, being a mandate of federal law,¹⁷ cannot be placed at risk through reliance on unreliable data and methodologies that are subject to verification only through a challenge process. As a matter of public policy, it

¹⁴ *Public Notice*, ¶ 9.

¹⁵ *Rural Associations Comments* at p. 8.

¹⁶ *Id.*

¹⁷ 47 U.S.C. § 254(b) and (c).

is essential that a more robust and carefully designed process based upon objective and complete data be employed in assessing the purported presence of unsubsidized competition. This process must not only identify the mere availability of broadband services in part of a given area, but also identify accurately the extent to which voice services are available, including the rates and quality of both voice and broadband services throughout that area.

Respectfully submitted,

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